Minutes  
Minnetonka City Council  
Monday, May 14, 2018

1. Call to Order
Mayor Brad Wiersum called the meeting to order at 6:30 p.m.

2. Pledge of Allegiance
All joined in the Pledge of Allegiance.

3. Roll Call
Council Members Tim Bergstedt, Tony Wagner, Patty Acomb, Mike Happe, Deb Calvert, and Mayor Wiersum were present. Bob Ellingson was present at 6:34 p.m.

4. Approval of Agenda
Bergstedt moved, Calvert seconded a motion to accept the agenda with addenda to items 14B and 14C. All voted “yes.” Motion carried.

5. Approval of Minutes: April 2 and 16, 2018 regular council meetings; and April 16, 2018 LBAE meeting
Bergstedt moved, Calvert seconded a motion to approve the minutes of the April 2, 2018 regular council meeting, as presented. Bergstedt, Wagner, Acomb, Calvert and Wiersum voted “yes.” Happe abstained. Ellingson was absent. Motion carried.

Bergstedt moved, Calvert seconded a motion to approve the minutes of the April 16, 2018 regular council meeting, as presented. Bergstedt, Acomb, Calvert and Wiersum voted “yes.” Wagner and Happe abstained. Ellingson was absent. Motion carried.

Bergstedt moved, Calvert seconded a motion to approve the minutes of the April 16, 2018 Local Board of Appeal and Equalization meeting, as presented. Bergstedt, Acomb, Calvert and Wiersum voted “yes.” Wagner and Happe abstained. Ellingson was absent. Motion carried.

6. Special Matters: None

7. Reports from City Manager & Council Members
City Manager Geralyn Barone reported on upcoming city events and council meetings.

Wiersum said he attended a meeting of the Metropolitan Legislative Commission. The commission met with the governor’s Chief of Staff Joanna Dornfeld and Deputy Chief of Staff Erin Campbell. They discussed legislative priorities including bills that relate to local control and long term transportation funding. He also reported on the accomplishments of four members of the Williston running club of which he is a member.

8. Citizens Wishing to Discuss Matters not on the Agenda
9. Bids and Purchases: None

10. Consent Agenda – Items Requiring a Majority Vote:
   A. Resolution approving a conditional use permit for a graduate school within the industrial district at 10225 Yellow Circle Drive

   Ellingson moved, Wagner seconded a motion to adopt resolution 2018-055 approving a conditional use permit for a graduate school within the industrial district at 10225 Yellow Circle Drive. All voted “yes.” Motion carried.

   B. Legal services agreement

   Ellingson moved, Wagner seconded a motion to authorize execution of a legal services agreement with Weitz & Luxenberg, P.C., Super Law Group, and Gray Plant Mooty Mooty & Bennett, P.A. regarding litigation. All voted “yes.” Motion carried.

11. Consent Agenda – Items requiring Five Votes:
   A. Resolution approving a preliminary plat of ARUNDEL ADDITION, a three-lot residential subdivision with variances, at 15500 Minnetonka Blvd.

   Ellingson moved, Calvert seconded a motion to adopt resolution 2018-056 approving the preliminary plat of ARUNDEL ADDITION, a three-lot residential subdivision with variances, at 15500 Minnetonka Blvd. All voted “yes.” Motion carried.

12. Introduction of Ordinances:
   A. Ordinance relating to diseased and hazard trees

   City Attorney Corrine Heine gave the staff report.

   Acomb moved, Wagner seconded a motion to introduce the ordinance. All voted “yes.” Motion carried.

13. Public Hearings:
   A. Temporary on-sale liquor license for The Rotary Club of Minnetonka Foundation, 14600 Minnetonka Blvd.

   Barone gave the staff report.

   Wiersum opened the public hearing at 6:49 p.m.

   Chris Rosenlund from the Rotary Club of Minnetonka provided details of the event.
Wiersum said the Rotary Club was a vitally important organization in the community and he thanked them for all the work they do.

Wiersum closed the public hearing at 6:51 p.m.

Acomb moved, Happe seconded a motion to grant the temporary liquor license in connection with a fundraising event for The Rotary Club of Minnetonka Foundation. All voted “yes.” Motion carried.

B. Temporary on-sale liquor licenses for Unmapped Brewing, LLC, 14625 Excelsior Blvd.

Barone gave the staff report.

Megan Park from Unmapped Brewing provided information about the event.

Acomb congratulated Park on the success of the business. She said Unmapped was a fabulous draw for the Glen Lake area. Wiersum said Unmapped had really connected with the community.

Wiersum opened the public hearing at 6:55 p.m. No one spoke. He closed the public hearing at 6:55 p.m.

Bergstedt moved, Calvert seconded a motion to grant the temporary liquor licenses in connection with both events. All voted “yes.” Motion carried.

C. Ordinance granting an electric franchise to Northern States Power Company

Heine gave the staff report.

Wiersum opened the public hearing at 6:59 p.m. No one spoke. He closed the public hearing at 6:59 p.m.

Wagner moved, Calvert seconded a motion to adopt ordinance 2018-04. All voted “yes.” Motion carried.

14. Other Business:

A. Amendment to resolution 2018-015, as it pertains to an expansion permit for a restaurant with outdoor eating area at 5445 Eden Prairie Road

City Planner Loren Gordon gave the staff report.

Bob Zappa, the general contractor on the project, said he was brought in after the initial bids were received. He said the bids were quite misleading in terms of the engineering. He proposed going to the full roof which would bring symmetry to the building and would dramatically reduce costs.
Bergstedt moved, Wagner seconded a motion to adopt resolution 2018-057 for an amendment to resolution 2018-015, as it pertains to an expansion permit for a restaurant with outdoor eating area at 5445 Eden Prairie Road. All voted “yes.” Motion carried.

B. Items concerning Solbekken Villas, a residential development at 5740 and 5750 Shady Oak Road

Gordon gave the staff report.

Happe said it looked like a great plan and the project area sorely needed development. He said there seemed to be a lot more slope than was shown on the renderings. He asked what the distance was between the buildings and the hill and if there was any concern about the slope. Gordon said the slope on the backside of the property ranged from 21 to 30 percent. He said the plans were a little bit misleading because of the one foot contours. A two foot contour topography map is more typical and that might make looking at the slope on this map seem a lot taller and steeper. The distance from the cut in the slope to the retaining wall was about 20 feet.

Wagner said he continued to have significant concerns with the looks of the townhomes on Shady Oak Road.

Ed Briesemeister, the applicant, said in terms of the slope he loved the initial designs but when the site work bids were received the price was too expensive. He still thought it was a good idea to pay the park dedication fees but also to dedicate the strip of land to the city as part of Lone Lake Park. People already assume the strip is a part of the park. Dedicating the property would create a better long term boundary.

Mike St. Martin, the project civil engineer from Loucks, said there was a 20 foot swath of land behind the buildings that would handle the drainage. There would be storm sewer between the building and the retaining wall.

Briesemeister said they may not be able to satisfy Wagner’s concerns but the goal was to have something that looks good from Shady Oak Road. Driving from the south a person really won’t see the development but driving from the north the look would be something elegant with a nicely proportioned look. If the project was approved he and the builder would meet with the city’s planning staff to address some of their concerns which were consistent with Wagner’s concerns.

Jason Aune, the project’s landscape architect, said the screening of the units had been a hot topic. From a landscape architectural point of view what was being done was to create some variation of pattern and screening along the back. For the gateway area there would be a country style fence mixed with varieties of evergreens and deciduous plants. There would be an effort to ensure that upon installation there would be significant plant material. Perennial plants would also be used.
Calvert said she shared Wagner’s concerns about the appearance of homes built along the roadways. She said the landscaping plan helped in this situation. The development had an elegant look and feel. It appeared to have adequate parking. The engineering addressing the steep slope also seemed adequate. She said it was a very unique and much needed project.

Wagner said he absolutely commended the developer on the entire project. The look from Shady Oak Road was not acceptable and the landscaping was inadequate. For six months of the year the look would be an issue. He said it took so much away from how beautiful the rest of the development was. A little more work to make this piece look better would lead to his support of the project. Shady Oak Road was such a busy road that the development should be showcased as a jewel.

Acomb said she thought the project was exciting and she commended the creativity of the single level living. She thought the unit buildings were full of character and charm. She shared Wagner’s concern about the plainness of the detached homes. She would like to see some more work to make it look better.

Barone noted that the deadline for a decision was July 21 so there would be time for the applicant to work further with staff if that was the council’s decision.

Wagner noted he had given the same comments three times before, so he was skeptical that changes would be made. He didn’t want to hold up the development but he could not vote to approve without seeing more detailed designs.

Calvert said she agreed with Wagner that this was the one time to get things right. Shady Oak Road was a major thoroughfare and there may be a way to make it look more attractive with a little more work.

Happe said it was a challenging site in terms of the physical space. Currently the area was a blighted area in sore need of development. He thought the project was great.

Ellingson said he didn’t want to hold up the project and the council didn’t have the authority to make aesthetic decisions. He appreciated the concerns but he did not want to hold up the project based on the concerns.

Bergstedt said it was a nice project and the applicant could work with staff to tweak it to make it look a little more appealing.

Wiersum said he understood the concerns about the look from Shady Oak Road but overall the project was very attractive. It was a bit of a conundrum because he also wanted the homes to look good to potential buyers. The view to Shady Oak Road was not the preferred view for large windows. He encouraged the developer to work with staff to see if further improvements could be made. He said it was possible to have a landscaping plan that would pretty much make the homes invisible from Shady Oak Road but over time trees grow and if they were too close together would die. To require a landscaping plan where the trees
would need to be thinned out was not a responsible solution. He encouraged the developer to put in landscaping that was meant to be sustainable with perhaps some fencing or other types of architectural elements that could improve the view for both the homeowners and traffic going by. He wanted to be mindful of the costs the city was requiring from the developer.

Calvert moved, Bergstedt seconded a motion to adopt ordinance 2018-05 and resolution 2018-058 approving final site and building plans and resolution 2018-059 approving preliminary and final plats. Bergstedt, Ellingson, Happe, Calvert, and Wiersum voted “yes.” Wagner and Acomb voted “no.” Motion carried.

C. Conditional use permit for a religious institution at 2333 and 2339 Hopkins Crossroad and 11170 Mill Run

Gordon gave the staff report.

Wagner asked for information about how the home and the facility would coexist. If the home went away in the future, what would that mean for the conditional use permit? Gordon said the application showed the three lots in a combined fashion. If the residence did not exist the site was not more impactful than what was approved. The driveway that was part of the residence could not be used for access to the Chabad site. Wagner asked if language was needed to clarify this. Gordon said there was a condition in the resolution that basically states the application as submitted is what was being approved. Any changes would need council review.

Wagner said he really liked the area graded for a trail. Hopkins Crossroad has been on the list of unfunded road improvements since before 2004. He asked if the area graded for the trail was dedicated right of way for city or county use. Gordon said the area graded for the trail was outside the property boundary and was currently right of way area. Wagner asked if in the future Hopkins Crossroad became a three lane road with trails, should the city be planning for more right of way acquisition and incorporate that as a consideration for the council given it was known a trail was coming. Gordon said there wasn’t a plat as a part of this project. The three lots were expected to be combined in order to meet all the building setback requirements. City Engineer Will Manchester said the trail was scheduled for 2023 and there should be adequate space as the current configuration exists.

Calvert said information in the council packet indicated 39 percent high priority tree loss. This was beyond the ordinance with a much higher percentage of significant tree loss. She said this concerned her. She asked if this was being allowed because it was a private development. Gordon said the application did not trigger the tree ordinance. If there was a re-platting the ordinance would apply. Calvert noted she lived near her own synagogue which was much larger than this one. She was acutely aware of traffic issues during certain times of the year and on certain times on certain days. She asked if it was possible to have a right turn only exit on to Hopkins Crossroad to mitigate some of the left turn on left turn issue. Gordon said for a right turn only exit two features were needed. One was a pork chop type of island. The other feature was a median separating
the lanes of traffic on the road. He said this would require a permit from the county to put the median in and he doubted if the county would approve it for this type of use given the traffic. Another issue related to enforcement.

Acomb noted the staff indicated they had a discussion with Hennepin County on what the county would find to be acceptable. The county indicated it would be acceptable to have an exit onto Mill Run or an exit further to the north. She asked how much further to the north an exit might be. Gordon said the county’s first preference would be to have access onto Mill Run. They would like to consolidate vehicles from this project at an intersection. The county indicated the second option would be an exit as far north as possible to get halfway between Mill Run and Hillside Lane.

Calvert said all the renderings included space for a mikveh, or bathing area, in the far eastern side of the building. This appeared very close to the back property line. She said staff told her the mikveh was not enclosed but was an outdoor mikveh. Gordon confirmed it was an outdoor space so there was no setback requirement.

Wagner asked if the south court and north court were all impervious pavers. Gordon said staff looked at them as impervious.

Rabbi Mordechai Grossbaum, 3301 Robinwood Lane, said Chabad Center for Jewish Life was an international organization of about 4,000 centers around the world with six local centers. For many years Chabad had been looking for a place to call home. He said the synagogue was a small piece of the programs they do. He clarified the mikveh would be indoors at the side of the building and not the back. There were a number of other changes that had been made during the process. He said 15,000 square feet sounded like a large number but put in perspective with a 9,000 square foot house for two people it wasn’t really that large. The 15,000 square feet allow the center to have classroom and office space eliminating the need to constantly convert one into the other.

Aaron Parker, the project architect, showed the plan that was presented to the planning commission and the revised plan. He said Wagner was correct about the permeable pavers in the north and south courts. He noted the library had been moved from the east wing allowing the wing to be shortened up. The height had been reduced as well. Additional trees had been saved.

Calvert said she appreciated the work that was put in to address concerns that had been raised.

Acomb asked where the playground would be located. Parker pointed to the area that would likely be the playground area. The actual playground area was not yet determined.

Calvert said she had concerns about pedestrian safety. She said many people walk and bike on this stretch of Hopkins Crossroad and she thought the area was dangerous. The council’s purview however was on the land use. She asked what the congregation planned to do to keep the people walking to the shul safe.
Grossbaum said the safety of those walking was clearly important. Walking would occur once a week for Friday night services. He said reflective vests would be available.

Calvert said her congregation on high holy days has an agreement with West Junior High for parking. There’s a shuttle bus available. She asked if similar arrangements had been made by Chabad. Grossbaum noted he had an email from the Ackerberg Group indicating Cedar 73 had parking available and was agreeable to provide shuttle service.

Lori Fritz, 11111 Mill Run, said she and her husband are Jewish and are actively involved in the Jewish community so any objections she had were certainly not religiously motivated. She said if the development was completed in the right way with the right principles applied, taking into considerations some suggestions, then she could be supportive. The highest responsibility the council had as elected officials was the safety and quality of life for residents. As proposed the center did not fit into the existing landscape, community and neighborhood. She asked the council not to approve the conditional use permit.

Jo Soo, 2391 Vernon Circle, said the proposed 15,000 square feet was big enough to fit many more than 125 people. He said the neighbors kept hearing the impact on traffic would be small. Activities would be minimal. But the size of the building indicated something larger would occur. With growth, current issues would be magnified and new issues would arise. The proposal was just too big. He said a building half the size would fit in more harmoniously with the neighborhood. Reducing the height wasn’t enough because the proposal was still too dense. He showed a picture of vehicle stacking on Hopkins Crossroad and a video of a bicyclist trying to cross the road and having to wait several minutes. He showed another video of a car attempting to make a left turn onto the property with cars stacking behind it. He said building a religious institution on the property was not the issue. Safety and harmony were the real issues. The size and intensity were the root issues of all the concerns.

Vernon Swing, CEO of Swing Traffic Solutions, said he was a licensed engineer with the state of Minnesota and had practiced traffic engineering for 33 years. He said he was representing the neighborhood group regarding the traffic access issues. He said the traffic study indicated currently there was an average 22 second delay for traffic on Hillside Lane trying to exit onto Hopkins Crossroad. With the development the average time increased by 33 percent to 29 seconds. He said staff misspoke at the Planning Commission hearing by saying the development would only add 7/10ths of one percent to the traffic on Hopkins Crossroad. The number was taking an hourly number and comparing it to a daily number. The traffic study indicated the development would add approximately four percent to the a.m. peak traffic on Hopkins Crossroad and five percent to the Friday evening peak. He said this doesn’t accurately portray the impact the proposed development would have. The arrivals to a religious service do not come evenly throughout an hour. Rather they start to arrive 15 to 20 minutes prior to the beginning of the service. The impact would be magnified over the 15 to 20 minute period. He said this was not a safe access when there was the amount of queuing that would build up. The location of the proposed access was
in the decision zone of the vehicles trying to get out from Fetterly Road and Mill Run. He urged the council not to approve the proposal until the access issue was resolved.

Jim Moscowitz, 11120 Mill Run, said throughout the staff report the staff used the applicant’s religious customs and practices to make an assessment of usage, parking and capacity. He said that made sense but the staff, city attorney, and planning commission had opined to the neighbors that the applicant’s religious customs and practices could not be used in determining whether the application met the conditional use permit standards. The staff accepted the applicant’s seating plan of tables and chairs which was less dense than chairs only in the sanctuary space to arrive at parking ratio. He said this was critical and had to do with density and also impacts of overflow parking in the neighborhood. The staff report referenced 21 other religious institutions in the city. He questioned if staff investigated the seating arrangements in the sanctuaries of the other religious institutions. Staff visited the St. Louis Park Chabad location to study the parking. Close to half of the cars were parked away from the sanctuary even with parking spaces available. One possible explanation for this was non-Orthodox Jews will often park offsite when attending an Orthodox synagogue out of respect for the religious practices of the congregation. Mill Run and Vernon Circle could suffer from nuisance parking every Saturday and on holidays no matter how many parking spaces the synagogue had. He said the neighbors opposed any project that would compromise the safety on Hopkins Crossroad. There were no life cycle events referenced in the application. Most Bar and Bat Mitzvahs were community events which include regular worshipers and invited guests.

Wiersum asked Heine to comment on the laws relating to how the city could evaluate the application. Heine said there was a federal law known as the Religious Land Use and Institutionalized Persons Act. When the city was looking at an application for a religious institution it needed to treat it in the same manner as any place of assembly. She said in respect to the seating, the requirement was the city would not set a different standard for this particular applicant in determining the parking requirements than the standards that would have been used for a different religious institution that practices a different faith or for a different place of assembly.

Stu Silberman, 11123 Mill Run, said he and his wife were supportive of Chabad’s mission. It was not about the neighbors being against Chabad. Rather it was the neighbors expressing concern over the way the project was being proposed, specifically the safety. He showed a picture from the winter showing large piles of snow. He said he was concerned about the overall impact the development would have on safety. There was no way there could be two way traffic if there was overflow parking on both sides of the street. Shifting the driveway access to Mill Run would cause difficulties for all those who lived on Mill Run. He said emergency vehicles needed to be able to get through. His daughter was a type one diabetic and he was concerned about her having access to emergency vehicles. He also was concerned about all the students driving to and from the high school.
Amy Weiss, 2308 Nottingham Court, said her children get on a bus at 8:03 a.m. at Hopkins Crossroad and Fetterly Road. There are at least four buses that stop at that corner. She said the previous Friday there were three parents waiting to put their kids on the bus. The bus was stopped with vehicles stacked behind it. Some drivers tried to use the right turn lane to try to pass the bus. There were vehicles heading north that were stacked up. There was a resident trying to cross the road to get on to the bus. Weiss said she was very concerned about the safety.

Michael Leirdahl, 2390 Vernon Circle, said he and his wife welcomed Chabad into the neighborhood but there were things in the proposal he'd like to see altered. He questioned the fairness of the limited time the neighbors and the council had to evaluate the new renderings that had been provided at the meeting. He said the changes to the library were an improvement but he would like to see a rendering of what it would look from the east side. He asked that the playground be relocated to somewhere other than 50 feet from his backyard. He also had concerns about the landscaping. The site plan showed all arborvitae. Staff had said something else should be looked at. The staff report indicated the landscape plan had not been finalized and he questioned how the proposal could be approved without a final landscape plan. He noted in 2008 for another project in the area the council required three rows of screening be put in along with a five foot berm. He asked why that wasn’t being required for this proposal. He said the existing fence was a rickety 25 year old fence and questioned why a new fence wasn’t being required. He asked that nothing be allowed in the 50 foot setback.

Kristin Soo, 2391 Vernon Circle, thanked Chabad for its work and mission. She said she was just as concerned about the view in as she was the view out. She said the changes made to break up the massive wall were appreciated. The lack of a rendering from the east side concerned her. The intensity of the east wing with six classrooms also concerned her because of the proximity to her property. She said there was no arborvitae tall enough to screen the second floor especially for the first few years.

David Segal, 2220 Cape Cod Place, said he supported the project. He said he bikes on Hopkins Crossroad all the time and he understood the safety concerns. He noted there had been a lot of development in the area over the past 25 years and the same concerns came up with those developments.

Tom Blackburn, 2333 Hopkins Crossroad, said when his house was built in 1979, there were not any concerns about traffic. He provided a history of how the homes around him were built. He understood the concerns that had been expressed but as changes occur people learn how to deal with traffic changes.

Harvey Robbins, 2475 Ridgewater Drive, said a number of years ago he was driving north on Hopkins Crossroad, turning left on to Fetterly Road, when he caught the eyes of someone coming up behind him over the crest. That was the last thing he remembered before getting cut out of his car that was on the side of the road in a ditch.
Susan Flint, 2390 Vernon Circle, said the council needed to follow the conditional use permit standards. One of the standards relates to public safety. She said her son is also a type one diabetic. If an emergency vehicle cannot get through, it is a life or death situation.

Susan Wiens, 2346 Vernon Circle, said the impact of the building influenced the number of parking stalls needed. The facility will hold in its design capacity a lot more people than what staff said it would hold. The design capacity wasn’t 33 tables with three chairs at each table but rather the number of chairs that could fit in the space without tables. She said that standard was used for all other religious institutions that were granted a conditional use permit. She asked staff for other examples of removable walls and they could not provide other examples. Future growth had to be accounted for.

Marvin Liszt, 9701 Oak Ridge Trail, said three dispassionate entities had looked at the proposal. One was SRF Consulting who did a comprehensive traffic safety study and did not find it to be an issue. City staff analyzed both the pedestrian safety issues and also the harmony of the building within the neighborhood. The planning commission looked at all the issues as well. He noted the resolution provides that any change to the approved use that results in a significant increase in traffic or a significant change in character may require a revised conditional use permit. He said the design of the building was beautiful and was absolutely in harmony with the neighborhood.

Wiersum asked what the process was for triggering council review if the conditions changed. Heine said the condition in the resolution makes it clear that the approval being granted is for the use as represented by the applicant. If the actual use changed or there was an intensification, the council had the right to require the permit holder to submit an amended application to continue the expansion or intensification of the use beyond what was approved. The council could also deny the changes.

Calvert said she wanted clarification that what the council was voting on was the land use and not safety issues. Heine said the issue before the council was a specific application. The applicant needed to show they met all the requirements of the ordinance that applies to the conditional use permit. One of the standards involves a determination that the application for the proposed use does not adversely impact public health, safety, and welfare. Safety was a valid and required consideration.

Wagner noted one of the residents asked for a detailed landscaping plan. He said typically the council does not get into the details but directs staff to work the details out with the applicant. He asked the staff to comment on the landscaping plan. Gordon said the ordinance requires a minimum landscaping value based on the value of the project. The building permit is used to determine the value of the project. There will be a more detailed plan than what was shown in the council packet. Staff always reviews a final landscaping plan. He noted the neighbors had asked to work with the applicant on the landscaping plan and he thought that was a really good ask of the applicant. Wagner said for some previous projects,
including Syngenta, the council had asked for more details about the landscaping.

Acomb asked if there had been any discussion with the applicant about a berm or if that was considered to be a part of the landscaping plan. Gordon said it could be part of the landscaping plan.

Wagner asked the traffic engineer to provide further perspective. He said he did not have concerns about the traffic count but he did have concerns about the stretch between Hillside Lane and Overlook Drive. His concerns were about stacking when making left hand turns into either Mill Run or the proposed development; stacking on Fetterly Road because of the hill and it being the only way out; and the stacking for turns would affect more than what was in the traffic report.

Matt Pacyna with SRF Consulting said Hopkins Crossroad in relation to Mill Run and Fetterly Road currently handles around 14,000 to 15,000 cars a day. It has fluctuated like that over the past 20 years. The traffic ebbs and flows due to different construction and development going on in the area. Currently there are bypass lanes at Mill Run and Fetterly Road. An alternative to this would be to install a left turn lane. This would create a conflict for those turning right. He said the stacking on Mill Run and Fetterly Road approaches and the volume of vehicles was fairly low and the proposed development would likely not change that much. This was one of the reasons the proposed access was where it was and not further to the north. Wagner noted SRF was correct with its analysis about the stacking for the Syngenta development. Pacyna said the left turn lane would be designed as a continuous southbound lane from Mill Run to Fetterly Road.

Wagner said he normally did not have concerns about working out traffic issues with Hennepin County in the future but for this development he did have a concern. The road did not seem wide enough. Normally when the council sees a development from a safety standpoint, there always was an improvement involved. In this case there was not a recommendation for an improvement. He was surprised by this. Pacyna said there was a preliminary recommendation for an improvement that looked at restriping to better utilize the bypass lane. He said there were conflicting messages from the county about what their preference was. From a traffic operations perspective, both options would work. Long term, the long term vision for Hopkins Crossroad was for three lanes. He said he looked at the best way to functionally get to the same level as the three lane road without requiring a full reconstruction.

Wiersum said when a street is built to the city standards and there are cars parked on both sides of the street, a person rarely would want to drive a Chevy Tahoe down that street let alone a city fire truck. A driver would not want to do that on any residential street in the city. He asked if there was an ordinance or expectation regarding parking on both sides of a residential street. Manchester said the typical width of a residential street was 26 feet. The reason for this is there is room to allow for parking on both sides and still leave room for an emergency vehicle to get through. The city does not allow overnight parking.
Some streets are signed for no parking. This typically was done by petition. Wiersum said cars parked on residential streets often are not parked very well and it is difficult to get through.

Wiersum asked how much latitude the council had on an application for a conditional use permit that met all the city’s ordinances. Heine said what the courts have said was if the requirements the city had set forth in the ordinance for a conditional use permit were met, then the applicant was entitled to have the permit issued. Whatever decision the council makes, whether to approve or deny, the council was required to support the decision with findings. She said staff had prepared a resolution with detailed findings. The basic standing the court looked at was if the council had set forth legally sufficient reasons for approving or denying the permit. Some of the standards in the ordinance were very objective and measurable and not subject to debate. For those standards there really was no council discretion. Other standards were somewhat more subjective and allowed the exercise of some discretion. The exercise of discretion had to be reasonable and founded in facts that the council determined to be credible.

Calvert said the proposal was one of the more difficult decisions the council had faced in a while. She said her synagogue had a retractable wall. On high holy days chairs are placed in the additional space and there were more people than could be accommodated by the parking. This was why she suggested a shuttle be used. She said there were times when she served on the planning commission where she felt compelled to vote for something that she didn’t particularly like because the proposal met the city’s ordinances. She said there were things about this proposal she didn’t particularly like but still met the ordinance requirements. She liked that the height of the building was reduced and the mass was broken up significantly. The setback requirements and the landscaping had been met. She said she liked how the applicant indicated he would make people more visible to address her concerns about pedestrian safety. This was a chaotic area and she was disappointed the traffic study did not include Hillside Lane. Having a right turn only exit, even if it could not be enforced, might help a great deal. She thought there were tremendous advances to blend in with the neighborhood better.

Wagner said he agreed with Calvert that there were many dilemmas with this application. He applauded the neighborhood for being very well organized. He said the applicant had made a number of adjustments to the proposal. The height was now much lower than a code permitted two or three story house. He thought the proposal that the planning commission reviewed had a better view in the front but the changes were to address neighbors’ concerns. This was the smallest site in the city. This was not addressed in the ordinance. There was no minimum lot size or floor area ratio in the ordinance. The building was 15,000 square feet and would be used for social gatherings. He questioned what would happen if there was an expansion of the building or there were more regular life cycle social events. The only option was offsite parking which may impact the stacking issues. His concerns were around scenarios for future use which got into site compatibility.
Wagner said he didn’t think the council should make a decision when the city and county were not aligned. The problem was now over 15 years old and he believed the city in alignment with the county should make sure the solution was the right one. Extra right of way was needed between Hillside Lane and Overlook Drive to satisfy the county’s view. He thought this should be dealt with now. He noted Pacyna had indicated striping had initially been recommended along with some other minor improvements. He said he didn’t at all disagree that Chabad had the right and would be a good neighbor. He wasn’t at all sure that the 1.96 parcel as it exists today with potential incremental use and no plan for Hopkins Crossroad was the solution the council should accept. He thought there were too many unanswered questions. He said he was not a “no” vote but he wasn’t a “yes” vote either. He didn’t want to micromanage staff but he thought it would be helpful for the item to come back to the council with more information about how the landscaping and fencing would actually look. He also didn’t want to require the neighborhood to go through the petition process and preferred instead to have the council approve no parking on one side of Mill Run.

Happe said religious institutions were generally pretty good neighbors. The conditional use permit gave the council the ability to change the permit if conditions changed. The flipside was this was a big facility shoehorned into a small area. The parking was established based on the conditional use at the time. If the center grows there simply would not be enough parking. He found the videos Jo Soo showed to be extremely compelling at demonstrating what the current issues were with Hopkins Crossroad. While the increase in traffic might not appear to be that great, it would occur in an area everyone knew was already a rough traffic area. Adding even a small amount of traffic would not make things better but would make it worse.

Acomb said the applicant had done a lot of work in making the building smaller and shorter and breaking it up. The neighborhood had clearly stated they are welcoming of this neighbor and she thought there could be a great relationship established. She said it would be helpful for the neighbors to have a better understanding of the look. She advocated for a strong landscaping plan. This development would change the character of the neighborhood. She shared Wagner’s concern about the lack of clarity from the county about the access. It felt premature to make a decision when access to the road had not been given yet. She said the language in the conditional use permit gave her comfort in the council’s ability to reevaluate the permit if things changed.

Bergstedt said the facility likely would go in and they would be a good neighbor but the landscaping would be a huge issue. He would like more information about the landscaping. The road already was dangerous and he was uncomfortable approving the proposal until something was worked out with the county in terms of the access and options for improvement.

Ellingson said the difficulty was the proposal was for a permitted use. He thought it was odd that the ordinance required the street access had to be from a main artery. This was creating the issue with the county. He thought the proposal met the city’s ordinances but the ordinances didn’t fit the situation. He said the only thing that would satisfy the neighbors was to reduce the size of the building and
the number of people who would attend the services. He didn’t believe this was something the city could require. He wasn’t sure what would come back if the council decided not to take action at the meeting and he wasn’t sure what the council was asking the applicant to do.

Heine said the 120 day deadline for the council to make a decision applied to this proposal. The maximum extension would be to July 9. Wiersum asked if the minor improvements like striping were what would be negotiated with the county, and if the county would likely be amenable to those changes. Manchester said there had been multiple discussions with the county. The county had been very firm with what they had communicated in an email. Wagner said the ordinance was written to not allow certain uses on a residential street. This was at the heart of the conflict. Improvements to Hopkins Crossroad were far down the list of the county’s priorities. He said for him, the city needed to ask the county about the minor improvements and this would give the applicant information about whether or not the county would approve the access.

Wiersum said Chabad had a great mission and would be very good neighbors but he wished they were not proposing this location because the location had some serious deficiencies. This was equal to the smallest piece of property in the city for this type of facility. The intensity of the building was greater than what was on the other equally small parcel. This wasn’t a reason to say “no,” but it made it more difficult to say “yes.” Another concern was Hopkins Crossroad was not a good access point and the city had no control on how good it was. The application was for a permitted use and it met the city’s ordinance requirements. He wished there was a better location. He said if the access for this facility could be to Hopkins Crossroad, he felt he had to vote yes. If the county said no, then the project would be over for this location because it no longer would meet the city’s ordinance. He didn’t think he would be doing his job if he didn’t say the city had to expend some effort in the interest of safety and appropriateness and honoring the ordinance as it was written.

Wischnack said the council had discussed two issues as the reason for tabling the item. The first was in order to get a more detailed landscaping plan. The other issue was working with the county to determine the detailed design for the improvements to the road with the applicant’s commitment to doing those improvements.

Wagner said the issue for him was to come to an agreement with the county on what improvements were needed for the operations between Hillside Lane and the top of Overlook Drive. The county may not agree to provide access to Hopkins Crossroad but they could help identify the improvements needed to make the entrances from Mill Run, Hillside Lane, and the applicant’s property effectively work. He said the development would create more left hand turns so what he wanted the county to respond to was what would make left turns work better than the existing bypasses.

Wiersum said people are skeptical about striping but striping can be remarkably effective. He said he would like to know what could be done at a modest cost.
Wagner moved, Acomb seconded a motion to table the item, directing staff to work with the county to identify what the specific desired improvements would be reporting those back to the council along with more information about the proposed landscaping. Bergstedt, Wagner, Ellingson, Acomb, Calvert, and Wiersum voted “yes.” Happe voted “no.” Motion carried.

15. Appointments and Reappointments:

A. Reappointment to the senior citizens advisory board

Wiersum moved, Bergstedt seconded a motion to approve the appointments to the senior citizens advisory board. All voted “yes.” Motion carried.

16. Adjournment

Wagner moved, Calvert seconded a motion to adjourn the meeting at 11:10 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk